BEFORE THE

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Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	CC Docket No 99-68
Inter-Carrier Compensation	)	
for ISP-Bound Traffic	)	

COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

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Summary

ALTS generally agrees with the Commission that parties should be allowed, in the first instance, to negotiate the terms for the exchange of ISP-bound traffic as part of the broader Section 251-252 interconnection negotiation process. However, it is also critical that the Commission adopt national rules to guide the states that arbitrate any disputes between carriers regarding the exchange of this traffic. Negotiations with a backdrop of strong federal rules is consistent with the manner in which these issues have been dealt in the past, is consistent with the Telecommunications Act of 1996 and may create incentives for both parties to ensure efficient use of their networks.

To guide the states in an arbitration, should the parties be unable to agree, the Commission should adopt several rules based on the following principles. First, the rates governing the exchange of ISP-bound traffic, like similar traffic, must be based upon a reasonable estimation of forward-looking costs. Second, the rules governing the exchange of traffic subject to other section 251(b)(5) traffic must apply to the exchange of ISP-bound traffic.

Finally, the Commission should affirm new entrants right to opt-in to existing agreements or portions thereof for the balance of the term of the agreement.

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I. INTRODUCTION AND SUMMARY

The Association for Local Telecommunications Services ("ALTS"), pursuant to the Notice of Proposed Rulemaking in the above-captioned proceeding, hereby files its initial comments on the appropriate inter-carrier compensation for calls to Internet Service Providers ("ISPs") in the future. ALTS is the leading national trade association representing facilities-based competitive local exchange carriers ("CLECs"), a number of whom provide service to ISPs, as well as other customers.

ALTS generally agrees with the Commission that parties should be allowed, in the first instance, to negotiate the terms for the exchange of ISP-bound traffic as part of the broader Section 251-252 interconnection negotiation process. However, it is also critical that the Commission adopt national rules to guide the states that arbitrate any disputes between carriers regarding the exchange of this traffic. Negotiations with a backdrop of strong federal rules is consistent with the manner in which these issues have been dealt in the past, is consistent with the Telecommunications Act of 1996 and may create incentives for both parties to ensure efficient use of their networks.

To guide the states in an arbitration, should the parties be unable to agree, the Commission should adopt several rules based on the following principles. First, the rates governing the exchange of ISP-bound traffic, like similar traffic, must be based upon a reasonable estimation of forward-looking costs. Second, the rules governing the exchange of traffic subject to other section 251(b)(5) traffic must apply to the exchange of ISP-bound traffic.

II. BACKGROUND

For many years, the FCC has allowed ISPs to obtain business service under local tariffs for the purpose of connecting to their customers. In addition, for all purposes, including separations, ISPs have been treated as end users.[1] Because there was little local competition prior to the passage of the Telecommunications Act of 1996, no significant dispute arose prior to 1997 as to the appropriate inter-carrier compensation for calls to ISPs that traverse more than one LEC's network.

After the passage of the 1996 Act, when the ILECs and the CLECs began intensive interconnection negotiations, issues surrounding reciprocal compensation for the "transport and termination of telecommunications" under Section 251(b)(5) of the Act were raised. At that time, it was the ILECs in general that insisted upon reciprocal compensation rather than "bill and keep" (which was supported by a number of CLECs) for the transport and termination of telecommunications traffic and it was the ILECs who insisted upon the rates that they now claim are too high for ISP-bound traffic. Moreover, despite the ILECs' current protestations, there was no reason to believe that ISP-bound calls, which had for all purposes been treated as local calls,

[1] See Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers, CC Dkt No. 87-215, 3 FCC Rcd 2631 (1988); Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Dkt 89-79 4 FCC Rcd 3983, 3987 (1989).

would not be covered by the reciprocal compensation agreements.[2] Bell Atlantic even defended the adoption of reciprocal compensation against charges that the transport and termination rates might be set too high by pointing out that, "[i]f these rates are set too high, the result will be that new entrants, who are in a much better position to selectively market their services, will sign up customers whose calls are predominantly inbound, such as credit card authorization centers and Internet access providers." Reply Comments of Bell Atlantic at 21, CC Docket No. 96-98 (filed May 30, 1996). The point here is that it was the ILECs themselves who insisted upon the initial reciprocal compensation rates.

Bell Atlantic turned out to be very prescient. Some CLECs began to market heavily to ISPs and won a number of them as customers.[3] Because ISPs have substantially more incoming calls than outgoing calls, the ILECs discovered that they were having to pay more in reciprocal compensation to the CLECs than the CLECs were paying to them. In the summer of 1997, a number of ILECs sent letters to CLECs declaring that the ILECs would no longer pay reciprocal compensation for calls to ISPs because such calls are interstate in nature and, therefore, according to the ILECs, not subject to reciprocal compensation.

For the next two years, the issue of reciprocal compensation was a matter of significant dispute at the federal and the state levels. Shortly after receipt of the letters from the ILECs, ALTS asked the FCC to rule that reciprocal compensation applied to local calls to ISPs.

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[2] That the ILECs presumably thought this traffic was covered by the reciprocal compensation agreements is demonstrated by the fact that most ILECs initially paid reciprocal compensation for this traffic, and that the ILECs did not raise the issue of whether reciprocal compensation should apply to this traffic until many months after the Commission's issuance of the Local Competition Order and the signing of a number of interconnection agreements.

[3] It should be noted, however, that a number of the ALTS members do not provide service to ISPs as a market strategy and thus have no financial interest in the outcome of these proceedings.

Although the Commission did not rule immediately on the ALTS request, over the next two years twenty-nine states ruled that reciprocal compensation applied to this traffic.[4] As the Commission is well aware, despite the various state proceedings, a number of ILECs continue to refuse to pay these monies.

In February of this year, the Commission released a Declaratory Ruling and the Notice of Proposed Rulemaking that is the subject of these comments.[5] In the Declaratory Ruling portion of the Commission's decision, the Commission found that for jurisdictional purposes ISP-bound traffic is mixed (inter- and intrastate) and that a "substantial portion of dial-up ISP-bound traffic is interstate." Declaratory Ruling, ¶ 20. It also found that, because a substantial portion of the traffic is interstate, the "reciprocal compensation requirements of section 251(b)(5) of the Act and Section 51, Subpart H . . . of the Commission's rules do not govern inter-carrier compensation for this traffic." Id., n.87.[6] At the same time, the Commission specifically stated that "nothing in this Declaratory Ruling precludes state commissions from determining, pursuant to contractual principles or other legal or equitable considerations, that reciprocal compensation is an appropriate interim inter-carrier compensation rule pending completion of [our] rulemaking." Id. at ¶ 27.

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[4] The states ruled either that pursuant to a complaint the interconnection agreements that had been signed covered reciprocal compensation or that, as a matter of a rulemaking, that reciprocal compensation applied.

[5] Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-Carrier Compensation for ISP Traffic, CC Docket No. 96-98, Declaratory Ruling ("Declaratory Ruling"); CC Docket No. 99-68, Notice of Proposed Rulemaking ("NPRM") (rel. Feb. 26, 1999).

[6] For a number of reasons, ALTS does not concur with this conclusion. Because the Commission's Declaratory Ruling is on appeal in the D. C. Circuit, ALTS will not comment on it further in this proceeding except to say that nothing herein should be viewed as acquiescence to the Commission's conclusion on the applicability of Section 251(b)(5) of the Act to ISP-bound traffic.

The NPRM portion of the Commission decision raised questions and reached some tentative conclusions as to the appropriate inter-carrier compensation for ISP-bound traffic to be used on a going-forward basis. Very briefly, the Commission tentatively concluded that compensation for this traffic should be governed prospectively by interconnection agreements negotiated and arbitrated by the parties under the auspices of the state procedures established in Section 252 of the Act. As a second alternative, the Commission sought comment on negotiations between the LECs under the auspices of the FCC. The Commission also sought comment on whether the Commission should adopt rules for the interstate traffic that would coexist with state rules, i.e., whether it is possible, or desirable to have different rules and rates for the inter- and intrastate calls to ISPs. Finally, the Commission, sought comment on the effect of Section 252(i) on the inter-carrier compensation issues.

III. THE COMMISSION SHOULD ALLOW CARRIERS TO NEGOTIATE INTER-CARRIER AGREEMENTS FOR THIS TRAFFIC IN THE FIRST INSTANCE.

In the NPRM, the Commission tentatively concluded that a negotiation process is more likely to lead to efficient outcomes than are rates set by regulation and that the inter-carrier compensation should be governed prospectively by interconnection agreements negotiated and arbitrated under section 251 and 252 of the Act. ALTS generally agrees that parties should be allowed, in the first instance, to negotiate the terms for the exchange of ISP-bound traffic as part of the broader Section 251-252 interconnection negotiation process. However, as discussed in Section III, infra, the Commission must establish national rules to guide states that arbitrate disputes between carriers regarding the exchange of ISP-bound traffic.

A. Negotiations Allow Carriers to Consider their Own Business Plans and Needs in Adopting an Inter-carrier Rate for this Traffic and Are Consistent with the 1996 Act.

The 1996 Act contemplated that, in the first instance, issues relating to interconnection between LECs should be negotiated by the parties with a backstop of state arbitrations. As the Supreme Court recently affirmed in the AT&T v. Iowa Utils. Bd. case,[7] the FCC has the authority and the obligation to adopt rules that will guide and control the negotiations and arbitrations under Sections 251 and 252. This is precisely what ALTS suggests should be the process by which inter-carrier compensation for ISP-bound calls should be determined. This process will ensure that carriers with special needs or business plans can make the best decision for their company and balance interests against each other.[8] At the same time, the limits placed by FCC rules on the arbitration process will ensure that the companies know, going into the negotiations, what the bounds of the negotiations are and have a specific knowledge of the rate that will be awarded by an arbitrator should the carriers not come to an agreement that is specific to their needs and plans.

B. The States Are Better Suited than the FCC to Arbitrate Disputes

In the NPRM, the Commission asked whether negotiations under the Section 251-252 scheme or under the auspices of the FCC would be more efficient and appropriate. For all of the reasons that the Commission articulated, ALTS supports the Commission's tentative decision that negotiations should be conducted under the Section 251-252 scheme. This means, of course,

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[7] 119 S. Ct. 721 (1999).

[8] A Commission ratemaking proceeding could be costly and time-consuming, and any rate mandated by regulators in all likelihood produce some skewed market results. In virtually all areas, the Commission is attempting to reduce the role of regulation. It follows therefore that carriers should be allowed to set the terms for the exchange of ISP-bound traffic through voluntary negotiations in the first instance.

that negotiations relating to inter-carrier compensation for ISP-bound traffic should be conducted together with all other issues raised in a request for interconnection and that any disputes regarding ISP-bound traffic would be addressed in Section 252 state arbitration proceedings along with other interconnection agreement disputes.

This procedure would be far more efficient than having a separate negotiation for such traffic under the auspices of the FCC. The states, of course, have been arbitrating agreements for the past three years and have in place the mechanisms necessary to conduct arbitrations. As discussed in Section III, infra, the states have been specifically working on setting rates for the exchange of Section 251(b)(5) traffic for three years now. The functionalities involved in the exchange of the ISP-bound and Section 251(b)(5) traffic are the same. All of this means that the states could easily assume responsibility for overseeing negotiations and arbitrations concerning ISP-bound traffic.

The FCC, on the other hand, does not have an existing mechanism to arbitrate these types of issues and, presumably, would have to set up a process for doing so. In addition to being time consuming and expensive, ALTS can see no reason to duplicate the efforts of the states by the establishment of parallel federal mechanisms.

Finally, the 1996 Act clearly contemplates that the states will arbitrate interconnection disputes. Even if the Commission is correct that the inter-carrier compensation for calls to ISPs is not governed by section 251(b)(5) of the Act, a proposition with which ALTS does not concur, it is clear that Section 252(c) contemplates that "any open issue" raised by interconnection requests between LECs will be arbitrated by the states, not the FCC.

C. All Negotiations Should Commence in Connection with Renegotiation of Existing Contracts

In the NPRM, the Commission suggests that negotiations would "commence on the effective date of the adopted rule, but could proceed in tandem with broader interconnection negotiations between the parties." NPRM, ¶ 31. It is somewhat unclear whether the Commission's proposal is that any negotiations (whether under the auspices of the States or the FCC) should commence at the adoption of the rules or only negotiations under the FCC auspices (although the rule wouldn't make any sense unless there were separate negotiations under the FCC auspices). In either event, ALTS strongly objects to the adoption of such a rule or proposal. A rule mandating new negotiations would undermine existing interconnection agreements. The Commission would wreak havoc on these agreements if it were to rule that the parties must renegotiate a portion of the agreement. [9] Regardless of the final outcome of this proceeding, the Commission must grandfather existing agreements and ensure that they remain in place for the term of the agreements.

D. LECs Must Be Permitted To Adopt Bill and Keep Arrangements For The Exchange Of ISP-Bound Traffic.

Assuming that the Commission adopts its tentative conclusion that in the first instance carriers ought to negotiate the rates for inter-carrier compensation for ISP-bound traffic, it may be implicit that "bill-and-keep" arrangements are not precluded.[10] At the same time, ALTS

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[9] It is also not clear that the Commission would have the legal authority to negate a voluntarily negotiated agreement. These are agreements that have been approved by the State Commissions and under 47 U.S.C. § 252 (e)(5), review of the State Commission decisions lies in the appropriate federal district court.

[10] It should also be made clear that states cannot mandate bill-and-keep arrangements. If the carriers cannot agree, the states must follow the FCC rules in determining inter-carrier compensation. These rules are discussed in more detail in Section III infra.

believes that it is important that the Commission state that the carriers may agree to bill-and-keep. Bill-and-keep is a means by which carriers with relatively equal traffic flows can save costs by agreeing not to measure and record traffic. And, since bill-and-keep is clearly an acceptable means of recovering transport and termination costs for other traffic under Section 251(b)(5), it would be consistent with the Act for the Commission to clarify that bill-and-keep is an acceptable means of inter-carrier recovery of the costs of ISP-bound traffic.

IV. THE COMMISSION SHOULD SET RULES GOVERNING STATE ARBITRATION OF DISPUTES CONCERNING THE EXCHANGE OF ISP-BOUND TRAFFIC.

In the Local Competition Order,[11] the Commission recognized that ILEC-CLEC interconnection negotiations are not typical commercial negotiations. This is so because the ILECs have virtually no incentive to cooperate in establishing reasonable terms and conditions for interconnection with CLECs and because the ILECs have much greater bargaining power than CLECs. See Local Competition Order, ¶ 55. The Commission established national interconnection rules to limit the harmful consequences of the ILECs' inefficient incentives and disproportionate market power and to establish a framework for carrier negotiations and guide states in resolving the arbitration of issues that ILECs and CLECs could not resolve.

All of the policy reasons cited by the Commission in favor of establishing national rules to establish a framework for negotiations for other interconnection issues apply equally to the exchange of ISP-bound traffic. Establishing such rules will (1) "facilitate administration of sections 251 and 252" as they apply to ISP-bound traffic, (2) "expedite negotiations and arbitrations by narrowing the potential range of dispute," (3) "offer uniform interpretations of the law that might not otherwise emerge until after years of litigation," (4) "remedy significant

[11] See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, 11 FCC Rcd 15499 (1996) ("Local Competition Order").

imbalances in bargaining power," and (5) establish the minimum requirements necessary to implement the nationwide competition that Congress sought to establish." See id., ¶ 41. The Commission's authority to establish such rules in the instant context cannot be questioned in light of the Supreme Court's decision in AT&T v. Iowa Utils. Bd. as well as the Commission's plenary jurisdiction over interstate traffic under Sections 151, 152(a) and 201-205 of the Communications Act.[12] Nor should there be any concern that such rules will be overly intrusive to the states since it is the states, as in all Section 252 matters, that have the primary responsibility of applying the broad parameters established by the Commission. The Commission should therefore establish the following minimum national rules governing the exchange of ISP-bound traffic.

A. The Rates Governing The Exchange Of ISP-Bound Traffic Must Be Based On A Reasonable Estimation Of Forward-Looking Cost.

Rates set by regulation must be based on cost, preferably forward-looking cost, in order to promote competition and ensure efficient outcomes. The requirements of Section 252(d) mandating cost-based rates for reciprocal compensation, interconnection, and unbundled elements reflect Congress's recognition of the fundamental importance of ensuring cost-based rates. Moreover, the FCC has also recognized that non-cost-based rates simply cannot be sustained in the competitive environment established by the 1996 Act.[13] No proposal presented

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[12] It is impractical, perhaps impossible, to separate the intrastate from the interstate components of ISP traffic. Where this is the case, the FCC may exercise jurisdiction over both the intrastate and interstate components. See Louisiana Public Serv. Comm'n v. FCC, 476 U.S. 355, 386 n.4 (1986).

[13] See Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure and Pricing; End User Common Line Charges, First Report and Order, 12 FCC Rcd 15982, ¶¶ 36-52 (1997).

in this proceeding for the terms and conditions under which carriers should exchange ISP-bound traffic that diverges from forward-looking costs should be given serious consideration.[14]

It follows that revenue sharing proposals such as the one advocated by Ameritech must be rejected outright.[15] Ameritech argues that the rate applicable to the exchange of ISP-bound traffic should be determined by splitting the ILEC's revenue from the originating ISP subscriber. Ameritech is, of course, concerned that it cannot recover the costs of carrying ISP-bound traffic from its own subscribers who originate that traffic. It is not clear whether ILEC revenues from second lines, vertical features, and high capacity lines to ISPs cover the cost of carrying ISP traffic. But, in any event, assuming that ILECs experience a shortfall, this is a problem that must be solved by the states by eliminating inefficiencies in local rates. The Commission should not attempt to fix the perceived problem of below cost local rates by imposing non-cost-based rates for the exchange of ISP-bound traffic. Put simply, two wrongs do not make a right.

Moreover, the Commission should reject ILEC claims that Internet calls will impose unique costs on the Public Switched Telephone Network ("PSTN') and that such costs justify eliminating reciprocal compensation payments to CLECs. Whatever costs Internet calls impose on the PSTN is simply irrelevant to the issue of inter-carrier compensation. These ILEC claims are rooted in the ILECs' long-standing opposition to the FCC's classification of ISPs as end users. That policy is not the subject to of this proceeding. As is discussed infra, however, the best way of addressing the purported cost to ILECs of carrying ISP traffic is to adopt measures

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[14] Of course, carriers may voluntarily agree to rates that are not based on forward-looking costs.

[15] See NPRM, ¶ 33 citing Letter from Gary Phillips, Director of Legal Affairs, Ameritech, Inc., to Magalie R. Salas, Secretary, FCC (July 17, 1998).

that give competitive carriers access to the ILEC network elements necessary for the provision of services over data networks rather than over the circuit-switched network.

B. The Commission Should Require That The Rules Governing The Exchange Of Traffic Subject To Section 251(b)(5) Also Apply To The Exchange Of ISP-Bound Traffic.[16]

By far the best way for the Commission to ensure that the rates governing the exchange of ISP-bound traffic are cost-based is to require that all the rules governing the exchange of traffic that is subject to Section 251(b)(5) also apply to the exchange of ISP-bound traffic. Indeed, the prohibition against unreasonable discrimination in the provision of interstate services in Section 202(a) of the Communications Act would seem to require that the exchange of Section 251(b)(5) traffic and ISP-bound traffic are treated exactly the same way.

Section 202(a) prohibits unreasonable discrimination in the provision of "like" services. 47 U.S.C. § 202(a) (prohibiting "any unjust or unreasonable discrimination" for or in connection with "like communication service"). The network functions performed by LECs delivering ISP-bound traffic to ISPs on the one hand and delivering other traffic subject to Section 251(b)(5) reciprocal compensation on the other hand are the same. Furthermore, local service purchased by ISPs is subject to exactly the same set of regulations, most importantly the same state tariffs, as the business services that are subject to Section 251(b)(5). The exchanges of these kinds of traffic are therefore "like" services. Allowing ILECs to pay or charge a different rate for the exchange of ISP-bound and other Section 251(b)(5) traffic would result in discrimination. Such a practice would directly discriminate against CLECs serving ISPs and would indirectly discriminate against the ISPs themselves.[17]

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[16] See note 6 infra.

[17] ALTS noted in its 1997 letter request to the Commission that it was our undertstanding that in fact ISP calls between ILECs (for example if there are two ILECs providing service in a

This discrimination between like services is prohibited under Section 202(a) in the absence of a sound policy basis supporting the discrimination.[18] No such policy exists here. First, as a preliminary matter, even if the Commission wanted to single out ISP-bound traffic for special treatment, it would be forced to differentiate ISPs from other similarly-situated business end users. For example, the Commission would have to explain why the rules governing ISP-bound traffic should not also apply to other businesses -- such as ticketing agencies, airlines, radio call-in shows, pizza delivery services and the like -- that receive large amounts of traffic and originate very little. Moreover, the Commission cannot rely upon the fact that ISPs connect traffic to interstate data networks, as there are other businesses -- such as bank-by-phone lines, credit verification services and ticket purchasing agencies -- that use the network in a similar fashion. Such an attempt to differentiate and distinguish the various recipients of traffic would be time-consuming and ultimately futile given the immense diversity of network usage. It would also force regulators to monitor all users' network usage patterns. This is of course completely impractical.

But there is no need to even consider such an undertaking since the current Section 251(b)(5) rules are fully adequate for ISP-bound traffic. As explained more fully in the following sections, the state rates for Section 251(b)(5) traffic offer appropriate and available rates for ISP-bound traffic. Moreover, the per-minute rate structure used in the Section 251(b)(5) context is fully appropriate for ISP-bound traffic.

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major metropolitan area as in Dallas) are not singled out for different treatment from other calls. We are not aware that any ILEC has addressed this issue.

[18] The FCC has specifically prohibited discrimination in state tariffs against customers that use local service to send interstate communications. See New York Telephone Co., 76 FCC 2d 349, 354 (1980), aff'd. sub nom., New York Telephone Co. v. FCC, 631 F.2d 1059 (2d Cir. 1980).

1. Many States Already Have Established Rates For Local Traffic That Can Be Applied To The Exchange Of ISP-Bound Traffic.

Many states already have established or could easily establish reasonable rates based on forward-looking cost under Sections 251(b)(5) and 252(d)(2), thus obviating the need for new rules for ISP-bound traffic. A large majority of state regulatory commissions have either formally approved forward-looking economic costs for the transport and termination of local calls, or have before them factual records that will allow the cost determinations to be made in the near future. Certainly, the states with the largest and fastest growing telecommunications markets have spent uncounted hours since 1996 examining cost estimates and cost models for Section 251(b)(5) transport and termination.

In addition, the minutes of use rates for transport and termination derived from different carriers' cost models, or as implemented in the state decisions, are broadly similar and are, if anything, converging. Most of these cost estimates, at least as modified and implemented by state commissions' analyses, reasonably reflect the TELRIC cost standard articulated by the Commission in the initial Local Competition Order. That is, the studies attempt to reflect forward-looking cost impacts of telecommunications traffic growth -- including the dial-up Internet traffic growth. By seeking to adhere to TELRIC principles, the various cost studies do purport to consider all forward-looking technologies that are available and/or in use today.

The ILECs may well object that future Internet traffic growth will so profoundly affect PSTN traffic characteristics that even the most up to date TELRIC studies cannot capture the true costs of transport and termination. This criticism would seem to apply to the exchange rate regardless of whether it applied to ISP-bound traffic or other Section 251(b)(5) traffic. In other words, such criticism challenges the current rate levels, not the conclusion that the same rate

should apply to both kinds of traffic. In any event, the development of new data access technologies, as well as network equipment enhancements and other mechanisms for offloading Internet traffic from PSTN switches, will likely eliminate the supposed peak traffic problems caused by Internet calls. Therefore, this first supposition is essentially unproven, and should not be used to undercut the validity of recent TELRIC cost studies.

ILECs may also allege that a CLEC's costs for the transport and termination of Internet calls to ISPs are so much different -- and lower -- than the costs estimated by current models, that TELRIC estimates of the cost of transport and termination of local calls are not applicable to Internet calls. The notion in a recent Telcordia paper, that CLECs only provide a "token" transport service is perhaps a harbinger of this assertion.[19] Such assertions are fundamentally at odds with recent ILEC attempts to convince the FCC and states to adopt high UNE prices. If

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[19] See J. Gordon and A. Atai, "Economics of Internet Offload and Voice Data Integration," Bellcore (now Telcordia), December, 1998, p. 4. ALTS discusses this paper more fully in Attachment A to these comments. The paper attempts to develop a linkage between estimates of the investment that an average ILEC will incur to upgrade its network for Internet traffic and CLEC reciprocal compensation. As mentioned above, this argument is irrelevant to the question of whether the same rate should apply to ISP-bound traffic and Section 251(b)(5) traffic.

In any case, the Telcordia paper appears to overstate the Internet-related investment that the ILECs will need to make in the PSTN. It does not consider the impact that CLEC provision of xDSL services, new special access circuits, or cable modems will have on end user connections to ISPs. The migration of end users to xDSL, special access, or cable modems could have a sizable impact on the need for upgrades to the PSTN. The Telecordia estimates of Internet access growth also exceed other public estimates by about 15 percent. In fact, under some feasible scenarios, the growth of alternative access technologies like xDSL could eliminate more traffic from the PSTN than Internet calls might otherwise be expected to add to the PSTN by 2003.

In any event, if the Commission views the growth of Internet traffic on the PSTN to be of major concern, the simple answer to that concern is not to let the ILECs off the hook for paying inter-carrier compensation. Rather, it is to take the regulatory actions necessary to ensure that CLECs have the ability to efficiently provide alternative (e.g., xDSL services) to end users and ISPs.

CLECs can build networks with costs below current notions of TELRIC (as reflected in reciprocal compensation rates), how is it possible that the ILECs are correct that TELRIC understates reasonable costs? Furthermore, to accept the ILEC argument, one must accept the idea that growing Internet traffic will be more costly for ILECs to serve, while, at the same time, believing that the same type of Internet traffic can be served by CLECs for only "token" costs. More fundamentally, the CLEC cost argument does not square with the facts. Publicly available information shows that ALTS members and other CLECs have invested over $13 billion in equipment and facilities over the last three years. If CLECs have a magic cost formula for serving Internet traffic, where has this money gone?

Finally, some ILECs appear to be prepared to argue that existing cost studies for transport and termination do not include Internet traffic. That argument is highly questionable. Most switching cost estimates are derived using only a few economic cost models. The Switching Cost Information System (SCIS) has long been used by most ILECs to develop economic costs, under either the Total Service LRIC or TELRIC. U S West uses a variation on SCIS referred to as the Switching Cost Model. The HAI model (formerly Hatfield) sponsored by AT&T and MCI Worldcom also includes modules to estimate economic costs and switching and transport.

All of these models largely treat network traffic loads under the basic assumption that a minute is a minute. Costs can be differentiated between the call set-up costs and call holding time costs in some of the models, but either cost component should be the same for Internet calls as for other calls. Of course, if growing Internet traffic contributed to large increases in busy hour of one hundred (centum) call seconds (or "BHCCS"), the input parameters to the cost models would change. Forecasts of such large increases are clearly incomplete as well as being questionable in other respects. But even to the extent the cost models might be run using

different inputs and assumptions, the costs would change for all minutes of use being studied. There should not be any basis for segregating Internet calls.

These considerations also underscore why it is appropriate to utilize the existing TELRIC costs adopted by states for Internet reciprocal compensation. The Commission also should provide economic and policy guidance to the states with respect to evaluations of any new or revised cost study assumptions and techniques.

Relative uniformity among the states' cost analyses already exist. Various cost models used in state proceedings since the 1996 Act show that there is substantial similarity among the cost estimates for switching and transport. These cost estimates are much closer than the different costs for local loops produced by various ILEC and CLEC cost models and estimates. Also, unlike the variances in TELRIC estimates for loop costs, the differences that do exist in switching and transport cost estimates can be attributed to differences in only a few assumptions and input values. The issues that have arisen regarding the network layout, density and other factors that can have significant impacts on the loop cost estimates do not bedevil cost models for switching and transport. In cost dockets before state commissions, some ILECs have estimated the direct cost of end office switching in the range of 0.52 to 0.58 per minute.[20] The HAI model developed for AT&T and MCI Worldcom is entirely public, on the other hand. Estimates of the direct costs of end office switching and transport per minute in the HAI model, using its so-called default inputs, range from 0.25 to 0.52 for Pacific Bell in California and GTE in Nebraska respectively. At least some state commissions have modified the HAI default inputs (for loops as well as switching) to produce somewhat higher economic cost estimates. Efficiently incurred common overhead costs should be added to these direct cost values.

[20] A number of ILEC studies are confidential and thus cannot be cited by name.

Therefore, while the so-called proxy rates for reciprocal compensation that the Commission first identified in the Local Competition Order (0.2 to 0.4 per minute) were a reasonable first approximation of the appropriate costs, there is now a large body of additional cost information from state regulators that can be used to set cost based rates for Internet traffic as well. Of course, until a state has actually adopted a rate based on TELRIC, the state should apply the FCC's proxy rates to the exchange of ISP-bound traffic in interconnection arbitrations.

2. The Per-Minute Rate Structure Used For The Exchange Of Section 251(b)(5) Traffic Should Also Apply To The Exchange of ISP-Bound Traffic.

In paragraph 29 of the NPRM, the Commission observes that "flat-rated pricing based on capacity may be more cost-based" for reciprocal compensation. To the extent that the FCC mandates the application of the rules, cost studies and rates governing Section 251(b)(5) traffic to ISP-bound traffic (at least in the absence of a negotiated agreement between the parties), this question would be resolved in favor of per-minute rates. But it is important to recognize that per-minute rates are in all events reasonable for the exchange of ISP-bound traffic.

ALTS believes that this issue needs to be evaluated as much from a practical standpoint as from the theoretical perspective. Capacity cost studies may offer theoretical advantages in terms of more directly expressing the effect of some network cost drivers. However, current switching cost models such as SCIS and the switching module of the HAI cost model would require revisions in order to directly produce peak capacity cost estimates. Minutes of use cost studies represent translations of the actual peak capacity costs for network switching and transport and thus do recognize peak load costs associated with network utilization.

Moreover, as noted above, current network capacity costs may change over time under the influence of Internet traffic and other developments. If in fact significant network offload is achieved by new data access technologies and other network architecture changes, existing

network peaks may actually shrink. Or, under circumstances that seem unlikely at the present time, new network peak capacity costs may be incurred. It would be difficult to formulate an accurate forward looking cost study in this environment. Equally important, these uncertainties may tempt some ILECs to try to manipulate new capacity cost studies for their own strategic purposes.

Today, virtually all services that use the PSTN are priced on a minutes of use basis, including all switched access services and local usage services. Any type of capacity tariff should logically address all services that could be priced in this manner, but rate structure revisions to the other services, particularly for interstate access, would implicate other, complicated issues that are well outside the scope of this proceeding.

In addition, formulating an entirely new pricing structure in the current environment would require LECs at a minimum to inefficiently segregate interconnection trunks. If the facilities carrying Internet traffic were subject to separate rates and rate structures, CLECs would be required to effect some physical means of separating and identifying those calls. Even if capacity cost tariffs did produce some economic efficiency benefits, some or all of those efficiencies would be offset by the network engineering penalties inherent in physically separating the traffic. Thus, rather than attempting to implement capacity pricing at this time, the Commission should preserve the existing cost studies and reciprocal compensation arrangements that apply to local traffic.

V. The Commission Should Affirm New Entrant's Right to Opt-in to Existing Interconnection Agreements or Portions thereof for the Balance of the Term of the Agreements.

In the NPRM, the Commission noted that, pursuant to Section 252(i) of the 1996 Act, parties may select to "opt-in" to existing agreements of portions of existing agreements. Apparently an arbitrator recently permitted a CLEC to exercise its 252(i) rights to opt into an

agreement that had a three year term and the arbitrator concluded that the new CLEC was entitled to a three-year term from the date of opting-in. This obviously raises the possibility that the incumbent LEC might be subject to the obligations set forth in that agreement for an indeterminant length of time. The Commission sought comment on whether and how Section 252(i) might affect parties' ability to negotiate terms of their interconnection agreements.

While ALTS addresses the specific question raised by the Commission below, it is constrained to note that some ILECs have not been complying with the requirements of Section 252(i). In recent months Bell Atlantic has refused to allow certain CLECs to enter into existing agreements that provide for the payment of reciprocal compensation for terminating internet traffic. Rather than allowing such CLECs to adopt such agreements in their entirety as provided in the 1996 Act, Bell Atlantic has insisted on inserting restrictions concerning the payment of reciprocal compensation. The Commission should make clear that it will not tolerate this type of practice of refusing to allow CLECs to opt into existing agreements under secion 252(I) and inserting restrictions upon the payment of such compensation.

The issue of the length of the terms of an agreement that has come into existence pursuant to Section 252(i) is obviously an issue that has far greater impact than the particular issues raised in the instant NPRM. ALTS has never, and does not now, advocate that ILECs should be forced to provide agreements or portions thereof for an indeterminate period. A requirement of that nature could make the ILECs more hesitant to sign any agreement and, while superficially appealing to new entrants, would probably harm competition in the long run.

Nonetheless, ALTS notes that because of the Eighth Circuit's stay of the Section 252(i) rules,[21] Section 252(i) was not fully available (because the ILECs refused to grant to the CLECs

[21] 120 F.3d 753, 880-01 (8th Cir. 1997).

any ability to opt-in to portions of agreements) until the Supreme Court reversed the Eighth Circuit. Therefore, if the Commission does articulate a rule concerning the opt-in provisions and the term of the agreements, it may want to provide some sort of transition period so that new carriers can opt into portions of existing agreements for some additional period of time. In fact, the arbitrator in a recent Delaware case has recommended a similar result. While the Delaware arbitrator found that ordinarily an opted into agreement will expire when the original interconnection agreement expires, in the particular case before him, where Bell Atlantic had refused for six months to allow the CLEC to opt in, the arbitrator ruled that the CLEC should get a six month extension to the term of the original agreement.

In addition, should the Commission address this issue, it should also clarify Section 51.809(c) of the Commission's rules. That section provides that,

> Individual interconnection, service, or network element arrangements shall remain available for use by telecommunications carriers pursuant to this section for a reasonable period of time after the approved agreement is available for public inspection under section 252(f) of the Act.

47 C.F.R. § 51.809(c).

There has been some dispute as to the meaning of this section with some ILECs protesting that agreements must only be available for "opt in" for a limited amount of time. However, when one looks at the reason that the Commission adopted this rule in the first place, it is clear that the Commission was trying to protect ILECs against having to provide UNEs or services that are no longer technically feasible. If the Commission establishes that ILECs should not be forced to provide services or UNEs pursuant to Section 252(i) for an indeterminate period (a proposition with which ALTS does not disagree) then it should also state that agreements can be opted into at any time as long as it is still technically feasible. Of course, as a practical matter, it would be highly unlikely for any CLEC to opt-in to an agreement if the term would be

extremely short. Thus, it is unlikely that an ILEC would ever be faced with a carrier seeking to opt in to an agreement near the end of the term of the agreement.

CONCLUSION

For the foregoing reasons, ALTS urges the Commission to adopt rules whereby negotiations are the method by which inter-carrier compensation for ISP-bound traffic is determined in the first instance together with the rules that control other Section 251(b)(5) traffic when carriers cannot otherwise agree.

Respectfully submitted

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INTERNET TRAFFIC GROWTH AND RECIPROCAL COMPENSATION

Introduction

Should inter-carrier payments for Internet calls be affected by the current and future growth of such calls on the public switched telephone network (PSTN)? If recent history is any guide, some ILECs may attempt to convince the Commission that it should. Such a conclusion would be analytically unsound, however.

Some ILECs again may complain that Internet traffic imposes such new burdens on their networks that they should be excused from reciprocal compensation for this traffic. While the ILECs cannot dispute the Commission's determination that "no matter what the payment arrangement, LECs incur a cost when delivering traffic to an ISP that originates on another LEC's network,"[1] some may try to sidestep this truism by highlighting the alleged costs of Internet traffic. The Commission should ignore such tactics and instead focus on the affirmative ways that carriers can recover transport and termination costs and improve data network utilization and efficiency.

ILECs have raised claims about the adverse effects of Internet traffic before. In 1996 several incumbent Bell companies submitted limited (and largely anecdotal) information to support the idea that Internet traffic imposed serious problems. The ILECs' claims appeared to be supported by a Bellcore study.[2] The Commission examined this issue in CC Docket 96-263[3] and a large number of ISPs and other parties disputed the ILECs' claims.[4] The Commission, of course, did not impose interstate access charges on

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[1] NPRM, paragraph 29.

[2] A. Atai and J. Gordon, "Impacts of Internet Traffic on LEC Networks and Switching Systems," Bellcore, July, 1996.

[3] Usage of the Public Switched Network by Information Service and Internet Access Providers, CC Docket No. 96-263, Notice of Inquiry, December 24, 1996.

[4] See L. Selwyn and J. Laszlo, "The Effect of Internet Use on the Nation's Telephone Network," Internet Access Coalition, January, 1997. http://econtech.com/documents/eti_net.pdf. Other experts have also cast doubt about the likelihood of dire Internet impacts on the PSTN. See A. Penzias, "Telcos, ISPs and the

Internet users. Since 1996 no significant network reliability problems have been attributed to the growth of Internet traffic and, certainly, no ILEC has experienced any financial or economic hardship in serving its share of the growing data traffic volume.[5]

Recently Bellcore (since renamed Telcordia) published another paper that attempts to develop a linkage between Internet traffic and CLEC reciprocal compensation.[6] The primary purpose of the paper is to estimate the network investment costs that an average large ILEC (i.e., one with 20 million access lines) might face from increased Internet traffic over the period through 2003. While the Gordon/Atai paper might have considered a variety of public policies issues and different market conditions, the only public policy issue it discusses involves ILECs' reciprocal compensation payments to CLECs for ISP bound traffic:

> [I]s reciprocal compensation fair to ILECs?...Not only must they expend considerable sums on PSTN infrastructure in order to support internet traffic, for little additional revenue....But they are also forced to pay CLECs compensation for a "token" transport service, that involves comparatively little investment in transport or switching equipment, and chiefly exploits the ILECs' access network and customer base.[7]

Analysis

As noted, the Gordon/Atai paper mainly seeks to estimate the network investment costs that an average large ILEC may incur due to increased Internet traffic. The paper estimates a "business as usual" or "present mode of operation" (PMO) cost and

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Internet," March 1997, available at http://www.earthlink.net/company/penzias.html. Nobel Prize winner Arno Penzias is the Chief Scientist at Lucent Technologies.

[5] In fact ILECs have profited greatly from the Internet. Earnings per share (EPS) increased 14.1 percent in 4Q98 and revenue on average increased 6.7 percent for 4Q98 as a result of an increase in traffic growth and second lines attributed to the Internet. Merrill Lynch, RBOC/GTE Report on 4Q98.

[6] J. Gordon and A. Atai, "Economics of Internet Offload and Voice Data Integration," Bellcore (now Telcordia), December, 1998 (Gordon/Atai paper). http://telcordia.com/newsroom/knowledgebase/papers/itesf-offload_econ.pdf

[7] Gordon/Atai paper, p. 4.

then estimates cost savings associated with different network architecture modifications that the ILEC itself might undertake. Each of these cost estimates/savings is calculated based on a single estimate of increased penetration of Internet access. The model uses low, medium and high estimates of the added peak calling load that Internet traffic might add to the large ILEC's network.[8] This estimating effort is useful but there are problems with the paper.

On its face, the Gordon/Atai paper seems to show a potentially significant cost impact for the ILEC, due to the growth of Internet traffic volumes. The paper estimates a PMO investment cost impact through 2003 of $3.2 billion to $8.5 billion -- using the lowest and highest estimates (respectively) of the amount of peak Internet traffic added to the ILEC's network. None of the cost savings from network architecture modifications modeled by the authors is estimated to eliminate these costs entirely. The hypothetical ILEC is left with more than $1 billion of added investments over five years under even the most favorable set of network modifications. These results would seem to underscore the paper's conclusions that Internet-related reciprocal compensation payments to CLECs might be eliminated, or that the pricing of CLEC transport and termination should reflect the ILEC competitors' "token" costs.

The Gordon/Atai paper, however, suffers from serious omissions and other deficiencies. Therefore, the paper cannot support possible ILEC claims against reciprocal compensation for Internet traffic.[9] Nor does the paper demonstrate that the forward looking economic costs of any carrier handling Internet traffic are likely to be markedly different than the costs estimated in current minutes of use based cost studies.

Of course, ALTS does not dispute the basic notion that the growing volume of long holding-time Internet calls presents distinct challenges for all LECs. ALTS agrees with the observation in the Gordon/Atai paper that "ILECs' current difficulties with

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[8] The peak traffic load is characterized through the Bellcore 1998 paper, and in ALTS' comments, in terms of the busy hour of one hundred (centum) call seconds or "BH CCS," a standard measure of telecommunications traffic.

[9] In addition, of course, the paper has not demonstrated any rational linkage between the cost, whatever they may be, that ILECs may incur and the issue of the appropriate intercarrier compensation when a CLEC transports and terminates any call for an ILEC.

reciprocal compensation can be dealt with most constructively by developing data networks and working towards voice/data integration..."[10] Indeed, properly understood, the paper provides a rationale for precisely the types of affirmative, pro active Commission policies that ALTS supports. These conclusions emphasize the need for the Commission to focus on affirmative policies for Internet traffic, rather than policies that preclude CLECs from recovering their costs of transport and termination.

ALTS examined several elements of the cost estimates developed in the Gordon/Atai paper. As noted the Gordon/Atai paper based its cost estimates on a hypothetical 20 million line ILEC. In order to compare the data with other nationwide data, such as market forecasts and historical line and usage growth, we applied the data inputs published by the authors to the entire US LEC industry based upon the FCC Statistics of Common Carriers data and grew access line and usage data from linear projections based upon recent growth activities.[11]

We compared their base case estimates of increased BH CCS on the PSTN with other publicly available market forecasts for the penetration of alternative data access technologies based on Asymmetric Digital Subscriber Lines and other DSL technologies (xDSLs) and Cable Modems.[12] The Gordon/Atai paper analyzes ILEC cost savings from deployment of DSL. But it does not include a specific market forecast for the technology or for the telecommunications industry as a whole. Therefore, we applied the xDSL market forecasts to Gordon/Atai's PMO usage growth estimates so as to avoid any double counting of xDSL impacts on PSTN usage. On the other hand, the effect of increased use of Cable Modems is not treated at all in the paper.

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[10] Id.

[11] This approach created an overall incremental CCS load attributed to dial up Internet traffic. For these purposes, it is reasonable to assume that the entire LEC industry over this period reasonably represents the overall industry, in ILECs and CLECs.

[12] Several summary market forecasts are available at the ADSL Forum web site, http://www.adsl.com/mrp_exec_summary.html (July 1998); Cable Datacom News, http://www.cabledatacomnews.com; and at http://www.catv.org/GIP/industry/stats. These summarize independent market estimates by Forrester Research, the Strategis Group, IDC and individual analysts. We compared various estimates and arrayed those that were consistent with each other across the same time period used in the Gordon/Atai paper.

In addition to new data access technologies, we examined a more traditional method of removing peak load CCS from the PSTN: Special access services. The rapid development of data telecommunications has spurred an increase in ILEC deployment of digital special access lines. In the 1995 to 1997 period ILEC digital special access lines grew at a compound annual growth rate (CAGR) of almost 40% per year, notwithstanding competition from CAPs and CLECs -- much higher than switched services growth. The precise share of these lines that are used to offload ISP bound traffic is not known. We assumed that only the share of the lines that directly connect ILEC switches and ISP serving locations is associated with Internet traffic offload.[13]

We also compared Gordon/Atai's estimate of Internet access growth through 2003 with other estimates of the growth in Internet households.[14] While under estimating the growth of the Internet among household users may be unwise, the penetration assumed in the Gordon/Atai paper by 2003 exceeds other publicly available market forecasts by about 15%.

ALTS analysis shows that, although the authors of this paper are correct to note that LECs of all sizes need to consider a variety of PTSN technological changes to accommodate Internet traffic, the large traffic loads and associated costs forecast by their model are well overstated. In order to accurately calculate future costs for Internet traffic on the PSTN one must consider all of the solutions to Internet traffic growth that are available not only through technological changes but also from stimulating more competition. Analysis of the public data shows that:

- Cable modems and DSL would absorb about three-quarters of the added BH CCS traffic load for Internet traffic by 2003, using Gordon/Atai's median estimate of the growth in busy hour volume associated with such traffic through 2003.

- The two data access technologies would absorb more than 40% of the added traffic load even under Gordon/Atai's worst case scenario, on a nationwide basis.

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[13] Gordon/Atai estimate that 30% of ILEC switches are this type of "egress" switch.

[14] Id.

- Equally important, the users of these data access technologies are likely to be among the more intensive users of the Internet. They may be on-line for longer periods of time than an "average" user. Therefore, in the absence of the alternative technologies these users would likely place the highest incremental CCS loads on the PSTN; in the busy hour this could be as high as 36 CCS. Thus, the data access technologies go to the core of the Internet traffic issue and, with proper rules in place, will offer a market based Internet traffic offload solution.

- The Internet penetration of residence access lines implied by the study[15] are substantially larger than other, credible forecasts of the growth of Internet usage by households. If the Gordon/Atai forecast is too high, the projected peak load traffic growth attributed to Internet traffic would be over stated by more than 35% to 40% in the 2001 to 2003 time period.

- If digital special access lines grow at just two-thirds the rate of the last three years, and only about one-third of the growth is devoted to offloading Internet traffic before it ties up ILEC switches, special access growth could absorb more than one-third of the forecasted BH CCS even under Gordon/Atai's worst case scenario. This growth as well as cable modem and xDSL would eliminate as much as 80% of the worst case growth in peak traffic associated with Internet use.[16]

The market forecasts we examined all indicated that usage of cable modems would likely exceed the use of xDSL after the year 2000. This relationship may reflect the fact that current the xDSL services that appear to be priced somewhat higher than available cable modem services.[17] Several market reports have suggested that reductions in prices in

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[15] The study does not differentiate its Internet penetration estimate between residential and non-residential subscribers. We applied the average penetration estimates only to forecasted residential access lines for this analysis, based on data in the FCC's Statistics of Common Carriers.

[16] Under either Gordon/Atai's lower or median traffic growth scenarios, the new data access technology and increased use of dedicated data lines, at the Primary Rate Interface (PRI) and above, could actually reduce the growth rate of BH CCS that would be expected to occur from "ordinary" non-Internet traffic, based upon historic growth in switched access lines.

[17] The continuation of this price relationship is by no means certain. Recently, for example, Bell Atlantic announced that it was lowering its ADSL prices by $10.00 per month. Telecommunications Daily, March 31, 1999. In addition, the Commission's recent order in CC Docket 98-147 may well reduce the costs of provisioning xDSL services. Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-48, March 31, 1999.

xDSL and cable modems could significantly stimulate demand.[18] As one illustration of this effect, a 30% stimulation of the forecasted market demand for xDSL service would alone eliminate about 10% of the added Internet traffic load on the PSTN developed by the Gordon/Atai model. A reasonable conclusion is that the single most appropriate affirmative actions that the Commission and other regulators could take with respect to Internet traffic is to further stimulate the development of xDSL service in a competitive market place. This would include: 1) the expedited conclusion of the Further Notice of Proposed Rulemaking in CC Dkt 98-147 addressing long-term spectrum compatibility and management issues; 2) an FCC order that mandates efficient use of the enhanced extended link (EEL) UNE to enable CLEC access to xDSL facilities that are offered through integrated digital loop carrier (IDLC) facilities; 3) use of UNE combinations including loops and transport to access CLEC ATM switches in the same manner that ILECs access their ATM switches; and 4) ILEC xDSL services resold at wholesale discounts. These pro-competitive actions will accelerate further the broadband deployment of CLECs and in turn incent ILECs to fully develop their own networks.

Conclusion

Thus, nothing about the growth of the Internet affects the conclusion that Section 251(b)(5) prices, based upon minutes of use, should apply to ISP-bound traffic. As noted in the ALTS comments, there is fairly broad agreement on the range of forward looking costs of a minute of use of switching and transport. Notwithstanding the evolution of telecommunications networks toward data traffic, the axiom that a minute is a minute remains correct. A different pricing standard would require different traffic measurements and impose unnecessary traffic management costs. Pricing uniformity will avoid the need to segregate different types of traffic, such as local calls and Internet calls. Segregating traffic in this manner is both highly inefficient and imposes a significant cost penalty on CLECs. Maintaining reciprocal compensation for Internet calls that does not require new measurement techniques, segregation of Internet traffic or new cost studies, the

[18] One forecast, for example, estimated that a reduction in high speed access prices to $25.00 per month could boost demand by 85%. See footnote 10 above.

Commission can ensure that LECs have the cash flow and incentives necessary to implement new PTSN and Internet offload technologies.

The Commission can and should take other affirmative steps to ensure that the growing volume of Internet traffic is handled efficiently by all LEC networks. The Commission has already taken important steps towards this objective in CC Docket 98-147. It can move in the same direction through this proceeding as well. Indeed, the Commission should require that certain ILECs eliminate current interconnection practices which require CLECs to maintain separate one-way trunk groups, or segregating and separately identifying "voice" and "data" traffic. These practices are required only by some ILECs.[19] These ILECs have cited billing system limitations or other temporary conditions, which the Commission should "sunset" by a date certain. A number of states have ruled that requirements such as one-way trunking are not required for network management.

More efficient network utilization also will occur if the Commission requires ILECs to offer the Enhanced Extended Loop (EEL) as an unbundled network element that will enable CLECs to more efficiently serve customers who make increasing use of Internet ISPs. The primary part of the network that could be adversely affected by growing Internet traffic are associated with local end office switches, particularly peripheral equipment such as the line concentration units or modules (LCU). While ILECs may attempt to overstate the impacts and costs likely to be associated with Internet calls, any solution that results in less new Internet traffic entering the switches themselves should be affirmatively encouraged by Commission policy. Provisioning of EELs is one way that traffic can be off-loaded from switches. The Commission's actions in the Advanced Telecommunications Capability docket should encourage CLECs to increase their efficient use of Digital Subscriber Line (DSL) technology. These same incentives can be promoted in this proceeding by ensuring a reciprocal compensation regime that allows LECs to cover their costs of transport and termination.

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[19] Bell Atlantic, for example, still requires CLECs to utilize one-way trunks while Pacific Bell requires CLECs to segregate "voice" and "data" traffic.

CERTIFICATE OF SERVICE

I hereby certify on this 12th day of April, 1999, I served a copy of the foregoing Comments of the Association for Local Telecommunications Services on the following persons either by first class mail, postage pre-paid or by hand as indicated.

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